

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

SHERRY DICK,

Plaintiff,

v.

THE HARTFORD,

Defendants.

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C.A. No.

JURY TRIAL DEMANDED

**Introduction**

1. Sherry Dick ("Plaintiff") brings this action against The Hartford Insurance Company for violation of the Employment Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et. Seq. ("ERISA").
2. This complaint challenges the Defendant's unlawful denial of the Plaintiff's short term disability income benefits (STD) despite medical evidence demonstrating Plaintiff's qualifications for said benefits, and thereby depriving Plaintiff of the appropriate short term disability benefits due to her under the Plan.
3. Specifically, Plaintiff is filing this action to recover benefits due under a policy of insurance to enforce the present rights existing therein, to clarify her rights under the terms of the Plan, and to recover costs, and attorney fees as provided by ERISA.

**Jurisdiction**

4. This Court has personal and subject matter jurisdiction over this case under 29 U.S.C. §1132(e) and (f), because the defendant's breach of its ERISA obligations took place in this district.

**FACTS**

5. The Plaintiff is a resident of the State of Delaware residing in Milford, Delaware.
6. The Plaintiff is a participant in the Plan, an ERISA welfare benefit plan that is administered by The Hartford Insurance Company.
7. The Plaintiff has standing to bring this action under ERISA, 29 U.S.C. §1132 (a).
8. Defendant, the Hartford has its corporate headquarters located at Hartford, Connecticut.
9. Defendant is a for-profit corporation and does business in the State of Delaware deriving revenue from the business it conducts in the State.
10. At all times pertinent, the Plaintiff was working full time at ILC Industries, Inc. where she was covered under the Plan.
11. Plaintiff was employed at ILC Industries, Inc. for 2 1/2 years as Team Assembler.
12. Plaintiff was entitled to short term disability benefits under the Plan.
13. To meet the definition of Total Disability under the Plan, the Plaintiff must not have been able to perform the essential duties of her occupation including assembling and packing hoods and the physical demands associated with these duties including a continuing amount of standing.
14. The Plaintiff's doctor stated that the Plaintiff was restricted from standing as of August 21, 2007, her first day out of work.
15. On August 20, 2007, the Plaintiff was directed by her Doctor stop working due to her being 20 weeks pregnant.
16. On August 21, 2007, Plaintiff's medical provider certified that the Plaintiff had a serious medical condition and that medical leave was necessary from work.

17. The Plaintiff presented a timely claim for STD to the Defendant based on complications related to her pregnancy.
18. The Plaintiff was totally disabled as defined under the Plan.
19. The Plaintiff is entitled to benefits from August 20, 2007 until her postpartum.
20. The Defendant rationalized their denial of benefits stating that there was no evidence of any medical complications or restrictions that would cause the Plaintiff her to be unable to perform the essential duties of her occupation more than two weeks prior to her estimated delivery date.
21. On September 26, 2007, the Plaintiff filed an appeal concerning Defendant's denial of benefits.
22. On October 3, 2007, the Defendant denied Plaintiff's appeal of their decision denying her short-term disability benefits.
23. The Plaintiff demonstrated through medical evidence that she is was totally disabled as defined under the Plan.
24. The Defendant was both the claims administrator and the payor of the benefits, when it denied Plaintiff's STD benefits, obviously a conflict of interest.
25. The Hartford funds the plan, which it administers.
26. The administrator used a self-serving approach by rejecting the overwhelming evidence that supported Plaintiff's claim for benefits.
27. Due to the unlawful actions of the Defendant under ERISA, the Plaintiff was denied STD benefits, which were rightfully hers.

28. The Plaintiff has exhausted all administrative procedures provided by the Defendant.

29. The Defendant breached its fiduciary duty in violation of 29 U.S.C. §1132 in the following ways:

1) Its consideration of the evidence was self-serving. The Defendant rejected evidence of the Plaintiff's physician and gave more weight to evidence that would favor a refusal of benefits.

2) The Defendant ignored the Attending Physician's Statement diagnosis of pregnancy, insulin dependent diabetes, and that the Plaintiff cannot stand all day at work and tired easily.

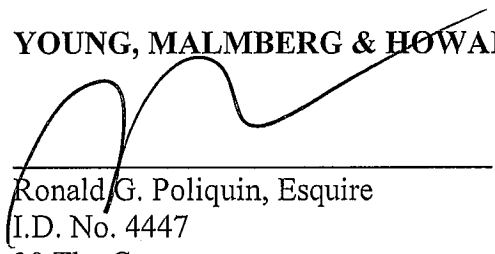
3) The Defendant ignored that fact that her Physician directed her not to work until post-partum.

30. The Defendant's denial of STD benefits is unlawful under ERISA, under 29 U.S.C. §1132(a)(1).

**WHEREFORE**, the Plaintiff prays that this Honorable Court grant her the following relief:

- a. Declaratory relief that she is entitled to disability benefits in the past with interest;
- b. Reasonable attorney fees and costs pursuant to 29 U.S.C. §1132(g);
- c. Alternatively, a remand that Defendant consider all of the evidence and how it impacted Plaintiff's ability to work.
- d. Such other relief that this Honorable Court deems appropriate.

**YOUNG, MALMBERG & HOWARD, P.A.**



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Ronald G. Poliquin, Esquire

I.D. No. 4447

30 The Green

Dover, DE 19901

(302) 672-5600

*Attorney for Plaintiff*

Dated: July 28, 2008

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C.A. No.

COMPLAINT

JURY TRIAL DEMANDED

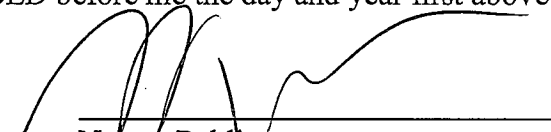
**AFFIDAVIT OF VERIFICATION**

STATE OF DELAWARE :  
: SS  
COUNTY OF KENT :

**BE IT REMEMBERED**, that on this 22 day of May 2008, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, SHERRY DICK known to me personally to be such, who being duly sworn according to law, did depose and say that the foregoing Complaint is true and correct to the best of her knowledge and belief.

  
SHERRY DICK

SWORN TO AND SUBSCRIBED before me the day and year first above-written.

  
Notary Public

**RONALD G. POLIQUIN**  
**ATTORNEY AT LAW**  
**MEMBER OF THE DELAWARE BAR**

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Sherry Dick

(b) County of Residence of First Listed Plaintiff Kent  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorney's (Firm Name, Address, and Telephone Number) Ronald G. Poliquin  
30 The Green  
Dover, DE 19901 302-672-5600

## DEFENDANTS

The Hartford

County of Residence of First Listed Defendant New Castle  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 26 U.S.C. 1001Brief description of cause: Erisa Claim

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

7-18-08

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_